

STATE OF MINNESOTA

IN SUPREME COURT

A20-1561

Court of Appeals

Thissen, J.

Carvin Buzzell, Jr.,

Appellant,

vs.

Filed: May 18, 2022
Office of Appellate Courts

Tim Walz, as Governor of Minnesota, et al.,

Respondents.

Matthew E. Anderson, Steven B. Anderson, Anderson Law Group PLLC, Saint Paul, Minnesota, for appellant.

Keith Ellison, Attorney General, Liz Kramer, Solicitor General, Richard Dornfeld, Katherine Hinderlie, Assistant Attorneys General, Saint Paul, Minnesota, for respondents.

Katherine M. Swenson, Amran A. Farah, Greene Espel PLLP, Minneapolis, Minnesota, and;

Karl A. Racine, Attorney General for the District of Columbia, Loren L. AliKhan, Solicitor General, Caroline S. Van Zile, Principal Deputy Solicitor General, Caroline W. Tan, Assistant Attorney General, Washington, D.C., for amici curiae District of Columbia, et al.

Lawrence R. McDonough, James Poradek, Housing Justice Center, Saint Paul, Minnesota, for amici curiae Housing Justice Center, et al.

SYLLABUS

The government commandeers private property under Minn. Stat. § 12.34 (2020) when it exercises exclusive control over or obtains exclusive possession of the types of property listed in the statute such that the government could physically use it for an emergency management purpose.

Reversed and remanded.

OPINION

THISSEN, Justice.

Appellant Carvin Buzzell, Jr. argues that his hospitality businesses were commandeered when, in response to the COVID-19 emergency, the Governor issued emergency executive orders that imposed capacity limits for dining beginning in March 2020. Buzzell asserts that, because he is the owner of commandeered property, he is entitled to “just compensation” for the government’s “use” of his property under Minn. Stat. § 12.34 (2020).

During a peacetime emergency and when “necessary to save life, property, or the environment,” section 12.34, subdivision 1(2), authorizes the governor to “commandeer, for emergency management purposes[,] . . . any motor vehicles, tools, appliances, medical supplies, or other personal property and any facilities.” *Id.*, subd. 1. Further, section 12.34, subdivision 2, provides: “The owner of commandeered property must be promptly paid just compensation for its use and all damages done to the property while so used for emergency management purposes.” *Id.*, subd. 2.

We conclude that, for property to be commandeered, the government must exercise exclusive control over or obtain exclusive possession of the property such that the government could physically use it for an emergency management purpose. The government exercises exclusive physical control or exclusive possession of private property when only the government may exercise control or possession of the property and the owner is denied all control over or possession of the property. We remand to the district court to determine whether, on the facts alleged and with all reasonable inferences construed in favor of Buzzell, the Governor exercised exclusive control over or obtained exclusive possession of Buzzell's properties such that the government could physically use them for an emergency purpose.

FACTS

It is difficult to overstate the adverse economic effects of the COVID-19 pandemic. Places of public accommodation have been especially hard-hit. As the district court noted, "There can be no doubt to anyone that this has been an incredibly challenging situation for Plaintiff and for many, if not most, small businesses. The impact of the Covid-19 pandemic on the economy and on individuals and small businesses has been staggering." In the United States, approximately 110,000 restaurants and bars closed at some point between

March and December 2020.¹ And it is estimated that in Minnesota alone, upwards of 10,000 restaurants and bars (a \$10.7 billion industry) were adversely affected.²

Buzzell is no exception. Buzzell owns two businesses that accommodate the public and have been impacted by the COVID-19 pandemic. Buzzell started a vineyard in Morrison County. In 2010, after the vineyard failed, Buzzell converted a barn on that land into a wedding venue, naming it Rum River Barn and Vineyard. In early 2018, Buzzell took on another mortgage to purchase a café in Milaca, which he then remodeled and renamed the Timber Valley Bar Grille and Catering.

On March 13, 2020, in response to the emerging COVID-19 pandemic, the Governor issued Emergency Executive Order No. 20-01, *Declaring a Peacetime Emergency and Coordinating Minnesota's Strategy to Protect Minnesotans from COVID-19* (Mar. 13, 2020). Emergency Executive Order No. 20-01 required state agencies to coordinate their responses to COVID-19 and advised the public to follow guidance on precautions to take to avoid the spread of COVID-19. *Id.* at 2–3. Three days later, the Governor issued Emergency Executive Order No. 20-04, *Providing for Temporary Closure of Bars, Restaurants, and Other Places of Public Accommodation* (Mar. 16, 2020). Stating that “[t]he COVID-19 pandemic presents an unprecedented challenge to our State,” the Governor ordered that places of public accommodation serving “food or beverage for on-

¹ Nat'l Rest. Ass'n, *State of the Restaurant Industry* 5 (2021), <https://bit.ly/3x2BYK3> (last visited Apr. 15, 2022).

² Indep. Rest. Coal., *Help Protect 276,700 Minnesota Jobs By Investing in Minnesota's Restaurant and Bar Community* 1, <https://bit.ly/30FUzQ4> (last visited Apr. 15, 2022).

premises consumption” were “closed to ingress, egress, use, and occupancy by members of the public.” *Id.* at 2. The Executive Order then clarified the following:

Places of public accommodation subject to this Executive Order are encouraged to offer food and beverage using delivery service, window service, walk-up service, drive-through service, or drive-up service, and to use precautions in doing so to mitigate the potential transmission of COVID-19, including social distancing. In offering food or beverage, a place of public accommodation subject to this section may permit up to five members of the public at one time in the place of public accommodation for the purpose of picking up their food or beverage orders, so long as those individuals are at least six feet apart from one another while on premises.

This Executive Order does not prohibit an employee, contractor, vendor, or supplier of a place of public accommodation from entering, exiting, using, or occupying that place of public accommodation in their professional capacity.

Id. (numbering omitted).

As conditions worsened, the Governor issued more emergency executive orders through April 2020, extending the capacity and use regulations of Emergency Executive Order No. 20-04 and ordering “all persons currently living within the State of Minnesota . . . to stay at home or in their place of residence” except to engage in excepted activities and “Critical Sector work.” *See, e.g.*, Emerg. Exec. Order No. 20-33, *Extending Stay at Home Order and Temporary Closure of Bars, Restaurants, and Other Places of Public Accommodation* 2–3 (Apr. 8, 2020). The Governor noted that, “[a]s of April 7, 2020, forty-one other states and the District of Columbia representing almost 318 million Americans” had issued similar orders. *Id.* at 2.

On May 26, 2020, the Governor issued Emergency Executive Order No. 20-62, *Amending Executive Order 20-56 to Allow Worship, Weddings, and Funerals to Proceed as Safely as Possible During the COVID-19 Peacetime Emergency* (May 26, 2020), which

allowed wedding venues to host weddings with social distancing and occupancy limited to 25 percent of the venue’s normal capacity “as determined by the fire marshal.” *Id.* at 3. The next day, the Governor eased restrictions on patio dining at restaurants and bars (subject to capacity limits and distancing requirements), while continuing to limit the capacity allowed for indoor restaurant and bar spaces to only five members of the public at one time, for the purpose of picking up their orders. Emerg. Exec. Order No. 20-63, *Continuing to Safely Reopen Minnesota’s Economy and Ensure Safe Non-Work Activities During the COVID-19 Peacetime Emergency* 7–9 (May 27, 2020). At no point were restaurants ordered to completely close; nor were restaurant owners prohibited from using or accessing, or permitting their employees to use or access, their businesses to prepare and serve food and beverages to customers.

While the emergency executive orders applied to all of the restaurants in the state, those not already equipped to offer takeout or drive-through food services were especially affected. Buzzell alleged that the Timber Valley Bar Grille and Catering was not positioned well to serve takeout or drive-through food, and during that time its revenue dropped by 75 percent. He applied for \$10,000 in federal COVID-19 Economic Injury Disaster Loan funds in early April 2020, but that relief was denied on May 29, 2020.

Four days later, on June 2, 2020, Buzzell filed this cause of action against the Governor and the Minnesota Executive Council, asserting both a takings claim under Minn. Const. Art. I, § 13, and a statutory commandeering claim under Minn. Stat. § 12.34, subd. 2. Buzzell’s statutory commandeering claim asserted that his “property and facilities” were “commandeered” for “use in fighting the spread of the COVID-19.” He requested relief

of “not less than \$40,000” as compensation for “commandeering and using his Timber Valley Grille since March 13, 2020, to help control the spread of COVID-19 virus.” *See* Minn. Stat. § 12.34, subd. 2 (“The owner of commandeered property must be promptly paid just compensation for its use and all damages done to the property while so used for emergency management purposes.”). The commandeering claim is the only issue before us.³

The Governor moved to dismiss under Minn. R. Civ. P. 12.02(e) and Buzzell moved for partial summary judgment. The district court granted the Governor’s motion and denied Buzzell’s motion.

The district court found that Buzzell’s commandeering claim failed as a matter of law because “none of the[] definitions [of ‘commandeer’] apply to the circumstances described.” The court turned to dictionary definitions to inform its statutory interpretation: “to seize for military or police use; confiscate”; “to take arbitrarily or by force”; or “to force into military service.” And it noted that Buzzell’s property “was not seized or confiscated, nor was it taken or forced into military service.”

Buzzell appealed the dismissal of his commandeering claim. The court of appeals affirmed, holding that the word “commandeer,” as used in section 12.34, subdivision 1(2), “unambiguously requires direct, active use of private property by the government.” *Buzzell v. Walz*, 962 N.W.2d 894, 899 (Minn. App. 2021). The court further concluded that

³ The district court dismissed Buzzell’s takings claim under the Minnesota Constitution as a matter of law. Buzzell did not appeal that decision. We express no opinion on the district court’s constitutional analysis.

“[commandeering] does not apply in circumstances . . . where the government places restrictions on a person’s own use of private property” and therefore, “a business owner subject to operating restrictions under executive orders issued by the governor during a peacetime emergency is not, on that basis, an ‘owner of commandeered property’ entitled to compensation under Minn. Stat. § 12.34, subd. 2.” *Id.* at 902.

ANALYSIS

This case arises from an appeal taken from the district court’s order granting the Governor’s motion to dismiss. *See* Minn. R. Civ. P. 12.02(e). We review de novo whether a claim is stated sufficiently to withstand a motion to dismiss. *Hansen v. U.S. Bank Nat’l Ass’n*, 934 N.W.2d 319, 325 (Minn. 2019). We accept the facts alleged in the complaint as true and construe all reasonable inferences in favor of the nonmoving party. *Bergstrom v. McEwen*, 960 N.W.2d 556, 563 (Minn. 2021).

In his complaint, Buzzell alleged that the Governor “commandeered” his facilities “for use to stop the spread of the COVID-19 virus.” Whether Buzzell’s property was “commandeered” by emergency executive orders regulating the use of his property turns on the meaning of “commandeer” in section 12.34, subdivision 1(2).⁴ That is an issue of

⁴ Whether the governor has “commandeered” private property for emergency management purposes is an issue of first impression. Examples of commandeering in Minnesota case law are rare. We are not aware of any other emergency management commandeering cases, and the cases that address “commandeering” in other contexts concern either sovereignty issues (one government commandeering the power of another government) or physical commandeering (a robber attempting to commandeer a car to use as a getaway vehicle). *See, e.g., In re Welfare of Child of S.B.*, No. A19-0225, 2019 WL 6698079, at *6 (Minn. App. Dec. 9, 2019) (addressing the anticommandeering doctrine between federal and state governments), *rev. denied* (Minn. Jan. 9, 2020); *Meric v. Mid-*

statutory interpretation, which we review de novo. *State v. Thonesavanh*, 904 N.W.2d 432, 435 (Minn. 2017).

“The first step in statutory interpretation is to determine whether the statute’s language on its face is ambiguous”—whether it is “subject to more than one reasonable interpretation.” *Id.* When determining whether a statute is ambiguous, “words and phrases are construed according to rules of grammar and according to their common and approved usage.” Minn. Stat. § 645.08(1) (2020). The specific “meaning of a word depends on how it is being used in context.” *Barrow v. State*, 862 N.W.2d 686, 691 (Minn. 2015) (citation omitted) (internal quotation marks omitted). Here, the context is emergency management.

Minnesota Statutes § 12.34 is part of the Minnesota Emergency Management Act.

Minnesota Statutes § 12.02 declares the policy of the Act:

Because of the existing and increasing possibility of the occurrence of natural and other disasters of major size and destructiveness and in order to (1) ensure that preparations of this state will be adequate to deal with disasters, (2) generally protect the public peace, health, and safety, and (3) preserve the lives and property of the people of the state, the legislature finds and declares it necessary: . . . to confer upon the governor . . . powers provided in this chapter.

Id., subd. 1 (2020). The powers conferred on the governor relevant here are as follows: “general direction and control of emergency management,” Minn. Stat. § 12.21, subd. 1 (2020); the power to declare a peacetime emergency, Minn. Stat. § 12.31, subd. 2(a) (2020); and the power to “make, amend, and rescind the necessary orders and rules to carry out the provisions of this chapter,” Minn. Stat. § 12.21, subd. 3(1) (2020). In addition, the

Century Ins. Co., 343 N.W.2d 688, 689–90 (Minn. App. 1984) (reviewing an insurance claim for injury resulting from a robber attempting to “commandeer” a get-away vehicle).

Legislature granted the governor the powers set forth in Minn. Stat. § 12.34, subd. 1, which provides:

When necessary to save life, property, or the environment during a national security emergency or during a peacetime emergency, the governor, the state director, or a member of a class of members of a state or local emergency management organization designated by the governor, may:

- (1) require any person, except members of the federal or state military forces and officers of the state or a political subdivision, to perform services for emergency management purposes as directed by any of the persons described above; and
- (2) commandeer, for emergency management purposes as directed by any of the persons described above, any motor vehicles, tools, appliances, medical supplies, or other personal property and any facilities.

Minn. Stat. § 12.34, subdivision 2, provides:

The owner of commandeered property must be promptly paid just compensation for its use and all damages done to the property while so used for emergency management purposes. The governor or the governing body of the political subdivision concerned, respectively, according to the use of the property, shall make a formal order determining the amount of compensation. The owner may appeal to the district court of the county in which the property was commandeered if, within 30 days from the date of the order, the owner serves upon the governor or the political subdivision concerned and files with the court administrator of the district court a written notice of appeal setting forth the order appealed from and, in detail, the amount claimed as compensation. Upon appeal, the issue is the amount of damages to which the appellant is entitled.

(Emphasis added.)

Accordingly, the statute authorizes the governor to require people to assist the government by performing emergency management services and authorizes the governor to “commandeer . . . motor vehicles, tools, appliances, medical supplies, or other personal property and any facilities.” *Id.*, subd. 1. A “facility” includes “any real property, building, structure, or other improvement to real property,” but it “does not include a private

residence.” Minn. Stat. § 12.03, subd. 4f (2020). Before the government may exercise this authority, two conditions must be satisfied: (1) the action must be “necessary to save life, property, or the environment during a national security emergency or during a peacetime emergency,” and (2) the action must be “for emergency management purposes.” Minn. Stat. § 12.34, subd. 1. Buzzell does not dispute the Governor’s authority to commandeer private property for use in responding to an emergency. In fact, that is what he alleges the Governor did here—commandeered his hospitality businesses for use in protecting the public from the COVID-19 pandemic.

The Legislature did not define commandeer in the statute. “In the absence of statutory definitions, we give words their plain and ordinary meaning” and “may consider dictionary definitions to determine the meaning of a statutory term.” *In re Krogstad*, 958 N.W.2d 331, 334 (Minn. 2021) (citation omitted) (internal quotation marks omitted). Dictionaries of common use define “commandeer” consistently, using almost identical language: “to compel to perform military service”; “to seize for military purposes”; “to take arbitrary or forcible possession of.” *See, e.g., Merriam Webster’s Collegiate Dictionary* 230 (10th ed. 1996).

The first common definition—“to compel to perform military service”—is unlikely the meaning of commandeer as used in section 12.34, subdivision 1(2), because government-compelled personal service is covered in the immediately preceding subdivision and is not subject to compensation. Minn. Stat. § 12.34, subs. 1(1), 2. This statutory context narrows the consistent common meaning of commandeer to the

definitions “to seize for military purposes”⁵ or “to take arbitrary or forcible possession of.” Turning to the definition “to seize for military purposes,” the term “seize” itself has several different ordinary meanings: to vest ownership in, to take possession of, to confiscate, to capture, to arrest. *See, e.g., Merriam Webster’s Collegiate Dictionary* 1058 (10th ed. 1996). As related to the term commandeering and the statute, however, the “take possession of” and “confiscate” senses of seize are most apt. Correspondingly, with respect to the definition “to take arbitrary or forcible possession of,” the term “possession,” in this context, has the meaning “control or occupancy of property without regard to ownership.” *See, e.g., id.* at 909.

⁵ The “military” context of the common definitions of commandeering is worth noting. Since enacting the Minnesota Emergency Management Act, the Legislature has always expressly excluded “functions for which military forces are primarily responsible” from its definition of emergency management. *See* Act of Mar. 19, 1996, ch. 344, § 12.03, subd. 4, 1996 Minn. Laws 267, 269 (codified as amended at Minn. Stat. § 12.03, subd. 4 (2020)). However, the Legislature first conferred the emergency power to “commandeer” on the governor in the Minnesota Civil Defense Act of 1951. Act of Apr. 23, 1951, ch. 694, § 304, subds. 1–2, 1951 Minn. Laws 1191, 1202–03. Like a hermit crab, the Minnesota Emergency Management Act essentially coopted the Civil Defense Act in 1996 for a new purpose. The Civil Defense Act expressly limited the governor’s authority to commandeer to civil defense—“to prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other enemy hostile action.” *Id.* at § 3, subd. 1 (1951).

Thus, when the Legislature first conferred “commandeering” authority on the governor, the statutory context precisely referred to military use. Thus, it is reasonable to read the word “commandeer” through the lens of what we commonly understand a military force to do when it commandeers—armed forces take control of food, property, vehicles, and other objects to feed, house, transport, and otherwise support troops to assist the military efforts. This is also important because military use is a paradigmatic public use. While the purposes for which the governor can commandeer property were expanded, the contemplated types and uses of commandeered property remained physical (“motor vehicles, tools, appliances, medical supplies, or other personal property”). *See* Minn. Stat. § 12.34, subd. 1(2).

Consequently, the ordinary meaning of commandeering carries with it a sense of exclusive physical control or possession of private property such that, for the time that the property is commandeered, only the government can exercise control or possession over the property and the owner is denied all control or possession over the property. This conclusion is supported by the statutory context. All the items that may be commandeered are physical items. *See* Minn. Stat. § 12.34, subd. 1(2) (identifying the property that may be commandeered to include “motor vehicles, tools, appliances, medical supplies, or other personal property and any facilities”); *see also State v. Khalil*, 956 N.W.2d 627, 638–39 (Minn. 2021) (“We generally recognize that statutes are commonly constructed to include specific items followed by a general catch-all term intended to capture the same kind or class of items as those specifically identified.”).

Therefore, for purposes of section 12.34, we conclude that the government commandeers private property when it exercises exclusive control over or obtains exclusive possession of the types of property listed in section 12.34, subdivision 1(2), such that the government could physically use it for an emergency management purpose. The government exercises exclusive physical control or exclusive possession of private property when only the government may exercise control or possession of the property and the owner is denied all control over or possession of the property.⁶

⁶ The parties offered extensive analysis of the court of appeals’ holding that the meaning of “commandeer” requires “direct, active use” by the government. Because we do not adopt the court of appeals’ definition, we do not address those arguments.

Buzzell offers a different approach to section 12.34. He argues that because section 12.34 uses words (“just compensation,” “property,” and “use”) that are also used in Minnesota’s eminent domain statutes, *see, e.g.*, Minn. Stat. § 117.155, subd. 2 (2020), as well as the Takings Clause of the Minnesota Constitution, Minn. Const. art. I, § 13, the statute is “inescapably tied to constitutional takings.” He then posits that because commandeering is a type of constitutional taking, the word “commandeer” is not limited to a physical seizure of property, but also imports from constitutional takings jurisprudence the notion of a regulatory taking or “government interference with the owner’s use of the property.” We disagree.

Buzzell’s argument simply stretches the statutory text of section 12.34 too far. *See State v. Fugalli*, 967 N.W.2d 74, 78 (Minn. 2021) (rejecting an interpretation of a statute because the “argument works too hard and unduly strains the ordinary meaning of the language adopted by the Legislature”). If Buzzell is correct that section 12.34 is importing the broader constitutional meaning of a taking, one would reasonably expect that the Legislature would use the critical word “taking” or “taken” in the statute. It did not; it used the different word *commandeer*.⁷

⁷ The headnote of section 12.34 is “Assistance Required, Compensation for Property Taken, Penalty.” Under Minn. Stat. § 645.49 (2020), “[t]he headnotes printed in boldface type before sections and subdivisions in editions of Minnesota Statutes are mere catchwords to indicate the contents of the section or subdivision and are not part of the statute.” *See Sheridan v. Comm’r of Revenue*, 963 N.W.2d 712, 718 (Minn. 2021) (citation omitted) (internal quotation marks omitted) (stating that headnote “has no value as an aid to statutory construction for a determination of the legislative intent . . . because headnotes . . . are mere catchwords . . . and are not part of the statute”) Further, review of the statutory history shows that the headnote language first appeared in 2002 and that the legislative history of the statute demonstrates that the phrase “Compensation for Property

We also decline to construe the eminent domain statutes, Minn. Stat. §§ 117.01–.57 (2020), and the emergency management statutes, Minn. Stat. §§ 12.01–.61 (2020), together for two reasons. First, we have already concluded that the meaning of “commandeer” in the emergency management statutes is unambiguous. Second, chapter 117 and chapter 12 govern distinct government powers, each bound by distinct statutory procedures. *See Thonesavanh*, 904 N.W.2d at 437–38 (explaining that two statutes may be construed together (the canon of *in pari materia*) only when interpreting an ambiguous statute, and only when the statutes share a common purpose and subject matter; for example, statutes that define two degrees of the same crime).

Critically, Buzzell himself does not make a constitutional takings argument on appeal, taking the position that “[i]n takings jurisprudence, a regulation that ‘is a proper effort to protect the health, morals, or safety of the community which has the effect of prohibiting a particular use of a property’ is not a ‘taking.’ ” (quoting *Zeman v. City of Minneapolis*, 552 N.W.2d 548, 553 (Minn. 1996)). Essentially, Buzzell’s position before us is that Executive Orders that imposed limits on dining capacity in response to the COVID-19 pandemic do not constitute takings under the takings clause of the Minnesota Constitution.⁸ He recognizes that this position causes a problem for his statutory argument

Taken” never appeared in any bill enacted by the Legislature. *See* Act of March 19, 1996, ch. 244, § 23, 1996 Minn. Laws 267, 284; Act of May 22, 2002, ch. 402, § 13, 2002 Minn. Laws 1694, 1699; *S.M. Hentges & Sons, Inc. v. Mensing*, 777 N.W.2d 228, 231 n.1 (Minn. 2010) (stating that headnote was not relevant when it was not part of the original legislative process).

⁸ After oral argument, both parties submitted as supplemental authority the Eighth Circuit opinion *Heights Apartments, LLC v. Walz*, No. 21-1278, 2022 WL 1009466 (8th

that section 12.34 simply imports constitutional takings principles—if the emergency management restrictions on Buzzell’s businesses did not constitute an unconstitutional taking, then even if the commandeering statute imported takings jurisprudence, it would not help Buzzell.

Buzzell seeks to iron out that wrinkle in his argument by claiming that the Legislature intended section 12.34 to fill the public health and safety “gap” in takings jurisprudence by statutorily requiring compensation when the government places limitations on the use of property during a public health emergency. There is no evidence that the Legislature intended to do so here, however. Indeed, had the Legislature intended to fill a constitutional gap, as Buzzell proposes, we would expect that, rather than trying to squeeze an entire compensation scheme for regulatory takings otherwise excepted for public health and safety into the single word “commandeer,” the Legislature would have taken a much more direct path to do so. *See Jepsen as Trustee for Dean v. County of Pope*, 966 N.W.2d 472, 486 (Minn. 2021) (rejecting a statutory interpretation argument on the basis that, had the Legislature intended a particular meaning, it would have chosen a more direct textual path). Moreover, the textual history renders Buzzell’s gap-filling

Cir. April 5, 2022). The case involved several constitutional challenges to the Governor’s use of emergency powers to limit the power of landlords to evict tenants in response to the COVID pandemic, including a takings claim under the United States Constitution. The case did not address the meaning of the commandeering provision in section 12.34. Moreover, as noted, Buzzell did not appeal from the court of appeals affirmance of the district court’s dismissal of his constitutional takings claim. Finally, as set forth above, we reject Buzzell’s argument that section 12.34 incorporates our regulatory takings jurisprudence. Accordingly, we conclude that *Heights Apartments* has no impact on our decision in this case and we decline to engage with a constitutional takings analysis beyond what is necessary to resolve the meaning of “commandeer” in section 12.34.

interpretation questionable. As noted, the word commandeering was not initially enacted in a statute dealing with public health and safety at all; it was used in a civil defense statute.

We recognize that the meaning of commandeering in section 12.34 is an issue of first impression. Today we adopt a definition that neither the court of appeals nor the district court applied in determining whether Buzzell stated a claim sufficient to survive a motion to dismiss under Rule 12.02(e). We also note that “Minnesota is a notice-pleading state and does not require absolute specificity in pleading, but rather requires only information sufficient to fairly notify the opposing party of the claim against it” and that “[u]nder our law, the pleading of broad general statements that may be conclusory is permitted.” *DeRosa v. McKenzie*, 936 N.W.2d 342, 346 (Minn. 2019) (citations omitted) (internal quotation marks omitted). Further, “a pleading will be dismissed only if it appears to a certainty that no facts, which could be introduced consistent with the pleading, exist which would support granting the relief demanded.” *N. States Power Co. v. Franklin*, 122 N.W.2d 26, 29 (Minn. 1963). We remand this case to the district court to determine whether the allegations in the complaint could support the conclusion that, by issuing the emergency orders, the Governor exercised exclusive control over or obtained exclusive possession of Buzzell’s property such that the government could physically use it for emergency management purposes. In other words, the district court must determine whether, under the emergency orders, only the government could exercise physical control or possession of Buzzell’s property and Buzzell was prevented from exercising any control over or possession of his property.

CONCLUSION

Therefore, we reverse the decision of the court of appeals and remand to the district court.

Reversed and remanded.